IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 15TH JUNE, 2007 / 25TH JYAISHTA, 1929

WP(C).No. 14218 of 2006(P)

PETITIONER:

THE ZONAL MANAGER, BANK OF INDIA,
KALOOR TOWER, KOCHI-17.

BY ADV. SRI.DEVAN RAMACHANDRAN

RESPONDENTS:

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1. SHRI T.THULASEEDHARAN NAIR,
T.C.22/819, SURESH BHAWAN, KIZHE PERUMPALLY VEEDU,
ATTUKAL, MANACAUD P.O., THIRUVANANTHAPURAM.

2. CENTRAL GOVERNMENT INDUSRIAL TRIBUNAL-
CUM-LABOUR COURT, ERNAKULAM.

BY ADV. SRI.V.B.PREMACHANDRAN, CGC
SRI.A.JAYASANKAR
SRI.C.ANIL KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.14218 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of I.A.No.16/2006 filed by the petitioner before the Central Government Industrial Tribunal cum Labour Court, Ernakulam.

Ext.P2: Copy of the objection filed by the 1st respondent.

Ext.P3: Copy of the order dtd.30.3.2006 in I.A.No.16/2006 of the Central Government Industrial Tribunal cum Labour Court, Ernakulam.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 14218 OF 2006 - P

Dated this the 15th day of June, 2007

J U D G M E N T

The petitioner is the Management in I.D.No.7 of 2005 before the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam. The issue referred for adjudication in the writ petition is dismissal of the workman. The workman was dismissed after conducting a domestic enquiry. The petitioner did not seek an opportunity to adduce evidence if the enquiry is vitiated, in the written statement filed by the Management. Thereafter, the petitioner filed I.A.No.16 of 2006 seeking to amend the written statement including the prayer for opportunity to adduce evidence if the enquiry is found improper. The same was rejected by Ext.P3 order, which is under challenge in this writ petition.

2. The question as to whether the Management has to seek such opportunity in the written statement itself and the question as to whether the Management can be permitted to amend the written statement later including a

prayer for opportunity to adduce evidence if the enquiry is vitiated, have been considered by me in a decision reported in **Edayar Ksheerolpadaka Sahakarana Sangham** v. **Industrial Tribunal** (2007(2) KLT 613) in which I have held that such opportunity has to be sought in the written statement itself and by seeking to amend the written statement later, the Management cannot cure that defect. That decision was also confirmed by a Division Bench. In the above circumstances, following the above judgment, I dismiss this writ petition.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007